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Attorneys for Plaintiffs

L.C., I.H., A.L., and Antonia Salas Ubaldo

**UNITED STATES DISTRICT COURT FOR THE  
CENTRAL DISTRICT OF CALIFORNIA**

L.C., a minor by and through her guardian *ad litem* Maria Cadena, individually and as successor-in-interest to Hector Puga; I.H., a minor by and through his guardian *ad litem* Jasmine Hernandez, individually and as successor-in-interest to Hector Puga; A.L., a minor by and through her guardian *ad litem* Lydia Lopez, individually and as successor-in-interest to Hector Puga; and ANTONIA SALAS UBALDO, individually;

Plaintiffs,

vs.

STATE OF CALIFORNIA; COUNTY OF SAN BERNARDINO; S.S.C., a nominal defendant; ISIAIAH KEE; MICHAEL BLACKWOOD; BERNARDO RUBALCAVA; ROBERT VACCARI; JAKE ADAMS; and DOES 6-10, inclusive,

Defendants.

Case No. 5:22-cv-00949-KK-SHK

*Honorable Kenly Kiya Kato*

**PLAINTIFFS' OPPOSITION TO  
COUNTY DEFENDANTS' MOTION  
IN LIMINE NO. 4 TO EXCLUDE  
"SAL'S" UNAUTHENTICATED  
BLACK & WHITE SURVEILLANCE  
VIDEO**

Hearing Date: May 15, 2025

Hearing Time: 9:30 a.m.

Location: Courtroom 3

Trial Date: June 2, 2025

Action Filed: June 7, 2022

1 **I. INTRODUCTION AND RELEVANT FACTS**

2 The officer-involved encounter and shooting death of Hector Puga on  
3 February 17, 2021, was captured on multiple video sources, at multiple angles. One  
4 such video source was a nearby house’s surveillance camera, which produced a  
5 black-and-white video of the shooting, showing Mr. Puga running away and the  
6 officers opening fire on him, at an angle that no other video captures. County  
7 Defendants sought to extend the fact discovery cut-off for the sole purpose of taking  
8 the deposition of the creator of this video, “Sal,” contending that they would suffer  
9 “irreparable harm” if not permitted to take Sal’s deposition because “Defendants’  
10 experts will not have the necessary information as to the origin of this video and any  
11 alterations made thereto for the purposes of evaluating the credibility of this video  
12 from an evidentiary standpoint.” (Doc. No. 95 at 4). County Defendants further  
13 argued that the video needed to be authenticated by Sal because it appeared  
14 “altered” due to the video being zoomed in and zoomed out at times, and County  
15 Defendants claiming that the audio does not appear to be synced with the video  
16 images. (Doc No. 95 at 14).

17 Plaintiffs opposed County Defendants’ request to extend the fact discovery  
18 cut-off to take Sal’s deposition, proffering that should the Court deny County  
19 Defendants’ request, County Defendants would not suffer prejudice because  
20 Plaintiffs did not intend to use the video to establish the timeline of the shooting or  
21 contend that the events shown on the event match up to the audio of the video.  
22 Despite this proffer, the Court granted County Defendants’ Ex Parte Application,  
23 allowing County Defendants to proceed with taking Sal’s deposition.

24 County Defendants now contend that Defendants were always under the  
25 impression that Plaintiffs would not be using the surveillance video as part of  
26 Plaintiffs’ trial evidence and that the video would be excluded from trial. This is  
27 belied by the fact that County Defendants still attempted to take Sal’s (later  
28 identified as Salvador Navarro Gurrola) deposition (*see* Exs. 1-2 to Le Decl. ISO

1 Pls.’ Opp. to Cnty. Defs.’ Ex Parte App.), and had their police practices expert, Ken  
2 Hubbs, review the black-and-white surveillance video, from which he attempted to  
3 interpret the video and relied on the video to form portions of his opinions contained  
4 in his initial Rule 26 Report that was disclosed in January 30, 2025<sup>1</sup> (*see* Ex. D to Le  
5 Decl. ISO Pls.’ MILs Nos. 1-5, Hubbs Report [Doc. No. 139-4] at 32, 77).

6 Additionally, the parties exchanged a list of contemplated motions in limine  
7 on April 7, 2025. Included in both State Defendants’ and County Defendants’ lists  
8 was a motion to exclude the black-and-white surveillance video. (*See* Exs. 3-4 to Le  
9 Decl. ISO Pls.’ Opp. to Cnty. Defs.’ Ex Parte App). During the parties’ April 11,  
10 2025 meet and confer, Plaintiffs’ counsel indicated that there were several issues  
11 that could not be resolved one way or the other at the meeting, including: (1)  
12 limiting photos of Mr. Puga’s body and autopsy photos, of which Plaintiffs believed  
13 could be resolved in Plaintiffs proposing a select number of photos during the  
14 parties’ exchange of exhibit list; (2) excluding evidence of Antonia Salas Ubaldo’s  
15 wrongful death damages, of which Plaintiffs’ counsel needed to get authority from  
16 Plaintiffs; and (3) excluding the black-and-white “Sal” surveillance video, of which  
17 Plaintiffs’ counsel needed to discuss with Plaintiffs’ lead trial counsel. (Le Decl.  
18 ISO Pls.’ Opp. to Cnty. Defs.’ Ex Parte App. ¶ 6). Subsequently, when the parties  
19 exchanged exhibit lists on April 14, 2025, Plaintiffs’ counsel provided further  
20 updates and clarification on the outstanding issues from the meet and confer,  
21 including Plaintiffs’ unwillingness to stipulate to excluding the black-and-white  
22 surveillance video. (Le Decl. ISO Pls.’ Opp. to Cnty. Defs.’ Ex Parte App. ¶ 7; *see*  
23 Ex. 5 to Le Decl.). Thus, contrary to County Defendants’ claim, Plaintiffs’  
24 unwillingness to stipulate to the exclusion of the black-and-white surveillance video  
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26  
27 <sup>1</sup> It should be noted that Mr. Hubbs does not question the credibility of the video and  
28 instead, takes it at face value in interpreting the video and relying on it to form his  
opinions.

1 was never a “sudden reversal” or “last minute change” of Plaintiffs’ position, and  
2 Plaintiffs should be allowed to present the black-and-white surveillance video as  
3 part of the evidence at trial for the reasons discussed herein.

## 4 **II. ARGUMENT**

### 5 **A. The Video is Reliable and Can Be Authenticated at Trial**

6 County Defendants seem to contend that because the video appears to zoom  
7 in and out at times, and claim that the sound is not synced to the images, that the  
8 video must be authenticated by the creator of the video. However, the zooming in  
9 and zooming out of the video does not materially alter what is depicted in the video  
10 and Defendants do not provide any support for the contention that the sound is not  
11 synced to the images on the video. When a video does not appear to be altered in  
12 any material way, it does not need to be authenticated by the creator of the video; it  
13 may be authenticated through other means, such as witnesses who have personal  
14 knowledge of what is depicted in the video or other video and photographic  
15 evidence of the event showing that the video in question is consistent with other  
16 recordings in evidence. *See* Fed. R. Evid. 901(b)(1), (3) (allowing authentication by  
17 personal knowledge or by “comparison with an authenticated specimen”); *Diaz v.*  
18 *Cnty. of Ventura*, 512 F. Supp. 3d 1030, 1035 (C.D. Cal. 2021) (third party  
19 YouTube video that did not appear doctored in a material way, notwithstanding  
20 defendant’s conclusory conjecture that they could be, could be authenticated  
21 because they appeared entirely consistent with videos and photographs of the  
22 incident that have already been authenticated); *Bynes v. Olmstead*, No. 2:21-CV-  
23 01537-DJC-AC, 2024 WL 3275662, at \*6 (E.D. Cal. July 2, 2024) (recording at trial  
24 could be authenticated by witness testimony or by other means); *Ian Merritt v.*  
25 *Jonathan Cogley*, No. 23CV1031-CAB-KSC, 2025 WL 1043546, at \*3 (S.D. Cal.  
26 Apr. 8, 2025) (unavailability of the creator of the video for authentication purposes  
27 did not mean the video could not be authenticated by percipient witnesses to the  
28 depicted events). Here, there are a number of witnesses to the incident and

1 authenticated videos and photographs of the incident that may be used to  
2 authenticate the black-and-white surveillance video. Additionally, while County  
3 Defendants previously argued that Sal's deposition as needed to establish reliability  
4 of the video for their experts, County Defendants' police practices expert review and  
5 relied on the surveillance video, without Sal's deposition and without taking issue  
6 with the reliability of the video. Thus, County Defendants' contention that the black-  
7 and-white surveillance video lacks foundation and reliability is unfounded.

8 **B. Plaintiffs are Entitled to Present Video that Captured the Shooting to**  
9 **Support Their Claims**

10 County Defendants attempt to use Plaintiffs' proffer in their opposition to  
11 Defendants' Ex Parte Application to extend the fact discovery cut-off to take Sal's  
12 deposition to exclude the video. But Plaintiffs' proffer was made on the basis that  
13 the Court deny Defendants' Ex Parte Application. County Defendants' subsequent  
14 actions after the parties' briefing on this issue belies Defendants' claim that County  
15 Defendants relied on this proffer to their detriment. Not only did County Defendants  
16 try to take Sal's deposition, but they also had their police practices expert review  
17 and rely on the video in forming his opinions. County Defendants' failure to follow  
18 up on taking Sal's deposition when he failed to show up for his originally noticed  
19 deposition date should not be faulted to Plaintiffs. Additionally, as discussed above,  
20 at no point during the meet and confer process for the parties' motions in limine did  
21 Plaintiffs' counsel agree to the exclusion of the black-and-white surveillance video.  
22 Thus, there was no "sudden reversal" of position as County Defendants contend.

23 The surveillance video captures the moment of the shooting and the actions of  
24 the involved officers and Mr. Puga. It is relevant to Plaintiffs' claims. Thus,  
25 Plaintiffs should be permitted to present this video to the jury to support their  
26 claims.

27 //

28 //

**C. The Video Provides Perspective that No Other Evidence Can Provide**

Admission of this video at trial is more probative than prejudicial. This video undeniably captures the shooting at a different vantage point and angle than any other video and thus, may fill in the gaps of what occurred prior to and during the shooting. Even if the Court were to find that the syncing of the audio to the images in the video is unreliable, the images depicted in the video can still provide clarity as to the positions of the officers and Mr. Puga prior to and during the shooting. The video shows Mr. Puga's actions at the front of the vehicle, which is in dispute, and positions of the officers immediately prior to and during the shooting, which is in dispute. For example, one important aspect of this video is that it shows where the County Deputies were at the time of the initial shots, calling into question their claims that they were in a position to be able to allegedly see Mr. Puga reach down into his waistband and produce a gun prior to running. If this video is not admitted, County Deputies' claim regarding what they observed and when they observed it could not be challenged, despite there being evidence to do so, which would prejudice Plaintiffs' ability to fully present their case.

While County Defendants contend that they will suffer prejudice if the video is shown at trial, County Defendants fail to explain exactly *why* showing a video that captures the shooting, has not been materially altered in any way, is consistent with other video recordings, and can be authenticated at trial by percipient witnesses or other video recordings, is prejudicial, especially in light of the fact that County Defendants' own police practices expert relies on the video in forming his opinions. County Defendants' issue with the late disclosure of the video was addressed and cured by the Court's extension of the fact discovery cut-off to allow County Defendants to depose the creator of the video. "Sal's" failure to appear at his noticed deposition was not caused by Plaintiffs nor was County Defendants' failure to follow up and try to reschedule Sal's deposition after his initial no-show.

1 Additionally, County Defendants' issues regarding the zooming in and out and  
2 audio syncing go to the weight of the evidence, not the admissibility of the evidence.

3 Accordingly, this video should be admitted to be shown at trial.

4 **III. CONCLUSION**

5 For the foregoing reasons, Plaintiffs respectfully request the Court deny  
6 County Defendants' Motion in Limine No. 4 to Exclude "Sal's" Unauthenticated  
7 Black & White Surveillance Video in its entirety.

8 DATED: April 24, 2025

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10  
11 By /s/ Hang D. Le

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Attorneys for Plaintiffs

**Certificate of Compliance**

The undersigned, counsel of record for Plaintiffs L.C., I.H., A.L., and Antonia Salas Ubaldo, certifies that this brief contains **1,750** words, which complies with the 7,000 word limit of L.R. 11-6.1.

Dated: April 24, 2025

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